

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

TRANSCRIPT OF SENTENCING HEARING
HELD BEFORE
THE HONORABLE JUDGE DANIEL R. DOMINGUEZ
MONDAY, NOVEMBER 3, 2014

A P P E A R A N C E S

For the United States:

AUSA: Luke V. Cass and Olga Castellon
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For Defendant:

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1 (WHEREUPON, commencing at 10:42 a.m., the following
2 proceedings were had, to wit:)

3 DEPUTY COURTROOM CLERK: United States of America
4 versus Marciano Olivo-Rosa. Criminal Case No. 12-626, 13-95.
5 Sentencing hearing.

6 On behalf of the Government, AUSA Luke Cass and
7 AUSA Olga Castellon.

8 On behalf of the defendant, Attorney Victor Chico.

9 Defendant is present and is being assisted by the
10 official court interpreter.

11 MR. CASS: Good morning, Your Honor.

12 THE COURT: Good morning.

13 MR. CHICO: Good morning, Your Honor.

14 THE COURT: United States.

15 MR. CASS: Your Honor, one of the substantive
16 counts, one of the Hobbs Act robberies in this case occurred
17 in Hato Tejas in Puerto Rico. As the defendants were fleeing,
18 one of the co-defendants, Mr. David Domenech-Andino went to
19 Walgreen's and shot and killed a police of Puerto Rico
20 officer. There was some delay in notifying the widow of that
21 officer about today's -- she's actually out of the
22 jurisdiction at a training in Boston, Your Honor. She has
23 informed that she would like to attend these proceedings.

24 THE COURT: When is she back?

25 MR. CASS: She will be back, Your Honor,

1 November 14th. We can reschedule it until then, if that
2 pleases the Court, in the morning. She can attend on that
3 date.

4 THE COURT: Let me ask you, are all the other -- did
5 all the other co-defendants in this case plea?

6 MR. CASS: Yes, Your Honor.

7 THE COURT: They have all pled.

8 MR. CASS: They have all pled.

9 THE COURT: And she wants to assist to all
10 sentencings?

11 MR. CASS: Yes, Your Honor.

12 THE COURT: I think she's entitled.

13 MS. CASTELLON: Well, Your Honor, the fact is --
14 this is AUSA Castellon, in the other matters in which the
15 other co-defendant, Joshua Ortiz-Brooks, he was not in the
16 same incident that Mr. Marciano Olivo-Rosa was present. So
17 that's the reason that the only case that she would be
18 available actually has to be in that other matter. So the one
19 that he already pled guilty and has been already sentenced,
20 she didn't have to attend that sentencing hearing. So the
21 only matter pending before this court is --

22 THE COURT: This case.

23 MS. CASTELLON: -- this case.

24 MR. CASS: The other defendants are before Chief
25 Judge Delgado, Your Honor.

1 THE COURT: All right. Very well.

2 All right. So she's back on the 14th?

3 MR. CASS: Yes, Your Honor.

4 THE COURT: She's available on the 14th?

5 MR. CASS: She has stated that she is available on
6 the 14th.

7 MR. CHICO: Your Honor, we understand she has a
8 right. However, it's a reasonable right to be heard. It's
9 not absolute. We are ready to proceed. So we will state our
10 objection for the record if the Court decides to continue the
11 hearing.

12 THE COURT: The Court -- this is a victim. And this
13 was a repercussion which if it had not -- if this crime had
14 not occurred, there wouldn't have been the other case. Am I
15 correct?

16 MR. CASS: That's right, Your Honor.

17 THE COURT: So she's not going to have a voice
18 because this defendant is not involved; right?

19 MR. CASS: I think she just wants to attend,
20 Your Honor. I think she just wants to see this thing through
21 for her husband.

22 THE COURT: When was this indictment filed?

23 DEPUTY COURTROOM CLERK: There's two different
24 indictments, Your Honor.

25 THE COURT: In this case?

1 MR. CHICO: No, it's two different indictments.
2 12-626 and 13-095. They were consolidated for purposes of
3 plea and sentencing, Your Honor.

4 MR. CASS: She relates just to 13-95, Your Honor,
5 not the other case, as AUSA Castellon.

6 THE COURT: And he's being sentenced to 13-95?

7 MR. CASS: Both.

8 MR. CHICO: Both cases.

9 THE COURT: Okay. So what's the prejudice of
10 waiting eight days? No, more than eight days. Waiting
11 11 days. I don't see any prejudice, especially because I
12 accelerated -- this was going to be on Wednesday.

13 MR. CHICO: On the 5th, yes, Your Honor.

14 THE COURT: On the 5th. And so what is the
15 prejudice between the 5th and the 14th? Nine days. I don't
16 think there's a big prejudice there.

17 When was the date of these two cases? When were
18 these two cases indicted?

19 DEPUTY COURTROOM CLERK: Okay. 13-95 indictment,
20 February 15, 2013.

21 THE COURT: And the other one?

22 DEPUTY COURTROOM CLERK: That's 12-626. Indictment
23 in the case, August 15, 2012.

24 THE COURT: I don't think that there's enormous
25 prejudice. So we'll put it for the 14th.

1 Are we available on the 14th?

2 DEPUTY COURTROOM CLERK: Yes, Your Honor.

3 THE COURT: Okay. The 14th.

4 Is counsel available?

5 MR. CHICO: And, yes, Your Honor, we are.

6 THE COURT: United States?

7 MR. CASS: Yes, Your Honor.

8 THE COURT: All right. So we continue this hearing
9 until the 14th.

10 MR. CASS: Judge, can that be in the morning?

11 THE COURT: Can it be in the morning?

12 DEPUTY COURTROOM CLERK: Yeah, I'm putting it for
13 the morning.

14 THE COURT: All right. Fine.

15 MR. CHICO: Thank you, Your Honor. Permission to
16 withdraw.

17 THE COURT: You may withdraw.

18 (WHEREUPON, the proceedings concluded at 10:47 a.m.)

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1 UNITED STATES DISTRICT COURT)
2 DISTRICT OF PUERTO RICO) ss.

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5 | **REPORTER'S CERTIFICATE**

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I, DONNA J. PRATHER, do hereby certify that the
above and foregoing, consisting of the preceding 6 pages,
constitutes a true and accurate transcript of my stenographic
notes and is a full, true and complete transcript of the
proceedings to the best of my ability.

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Dated this 20th day of February, 2015.

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S/Donna J. Prather
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